

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

HONEYWELL INTERNATIONAL)

INC., H.W. HUFF JR.,)

DOWNTOWN EAST LIMITED)

PARTNERSHIP, DOWNTOWN)

EAST, INC., and DELP-2, LLC.)

Defendants.)

CIVIL ACTION NO. 7:08cv00029

CONSENT DECREE

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I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607, as amended ("CERCLA"), seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Allied-Pulaski Superfund Site, Town of Pulaski, Pulaski County, Virginia (the "Site"). The United States also filed a claim pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), against the Downtown East Limited Partnership, Downtown East, Inc., and DELP-2, LLC (collectively, "Huff Entities"), for their alleged failures to comply with and/or willful violations of Administrative Order for Removal

Response Action, Docket No. III-2000-0027-DC, as amended ("Order").

B. Settling Defendants do not admit any liability to Plaintiff arising out of the transactions or occurrences alleged in the complaint.

C. The objectives of the Parties in entering into this Consent Decree are to protect public health or welfare or the environment at the Site by reimbursing response costs of the Plaintiff, to resolve the claims of the Plaintiff against Settling Defendants regarding past and future response costs as defined in Section IV below, and to resolve Plaintiff's penalty claims against the Huff Entities for failure to comply with and/or willful violations of the Order.

D. The United States and Settling Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED, AND DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States and upon Settling Defendants and their successors and assigns. Any change in ownership or corporate or other legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*

“Consent Decree” shall mean this Consent Decree. In the event of conflict between this Consent Decree and any appendix, the Consent Decree shall control.

“Day” shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

“DOJ” shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

“EPA” shall mean the United States Environmental Protection Agency and any

successor departments, agencies or instrumentalities of the United States.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Existing Contamination” shall mean (i) any hazardous substances, pollutants, or contaminants that migrated from the Site prior to the effective date of this Consent Decree; and (iii) any hazardous substances, pollutants, or contaminants presently at the Site that migrate onto or under or from the Site after the effective date of this Consent Decree.

“Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in performing any response action at or in connection with the Site, including but not limited to reviewing or developing plans, reports and other items pursuant to this Consent Decree, verifying the response actions at the Site, or otherwise implementing, overseeing, or enforcing this Consent Decree and/or the Order. Such costs shall include payroll costs, contractors costs, travel costs, laboratory costs, and other costs paid after October 4, 2006. Future Response Costs shall expressly include oversight costs.

“Huff Entities” shall mean the Downtown East Limited Partnership, Downtown East, Inc., and DELP-2, LLC.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

“Order” shall mean the Administrative Order for Removal Response Action, Docket No. III-2000-0027-DC, as amended.

“Owner” shall mean Honeywell International Inc.

“Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

“Parties” shall mean the United States and Settling Defendants.

“Past Response Costs” shall mean all costs, including but not limited to direct, indirect, and oversight costs, that EPA or DOJ on behalf of EPA has paid at or in connection with the Site through October 4, 2006, including interest on such costs.

“Plaintiff” shall mean the United States on behalf of EPA.

“Section” shall mean a portion of this Consent Decree identified by a Roman numeral.

“Settling Defendants” shall mean Honeywell International Inc., H.W. Huff, Jr., and the Huff Entities.

“Site” shall mean the Allied-Pulaski Superfund Site, Town of Pulaski, Pulaski County, Virginia. A map of the Site is attached as Appendix A.

“Successor in Interest” with respect to Section XIII shall mean any person who acquires an interest in the Site or a portion thereof (including, but not limited to, an ownership or leasehold interest) after entry of this Consent Decree.

“United States” shall mean the United States of America, including its departments, agencies and instrumentalities.

V. PAYMENT OF RESPONSE COSTS

4. Payment of Past Response Costs to EPA. Within thirty (30) days of entry of this Consent Decree, Settling Defendants shall pay to EPA \$572,828.44 in reimbursement of EPA's Past Response Costs incurred in connection with the Site. The total amount to be paid pursuant to this Paragraph shall be deposited in the Allied-Pulaski Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

5. Payment by Settling Defendants shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with EFT instructions provided to Settling Defendants by the U.S. Attorney's Office in the Western District of Virginia following lodging of the Consent Decree.

6. At the time of payment, Settling Defendants shall also send notice that payment has been made to EPA and DOJ in accordance with Section XVII (Notices and Submissions), and to:

Lydia Guy, Docket Clerk (3RC00)
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19107-2029

and to :

Barbara Borden (3PM30)
United States Environmental Protection Agency
Region III

1650 Arch Street
Philadelphia, PA 19107-2029

7. Such notice shall reference the EPA Region and Site/Spill Identification Number B374, DOJ case number 90-11-3-08708, and the civil action number.

8. Payments for Future Response Costs.

a. Settling Defendants shall pay to EPA all Future Response Costs not inconsistent with the National Contingency Plan. On a periodic basis the United States will send Settling Defendants a bill requiring payment that includes a cost summary identifying the categories of costs. Settling Defendants shall make all payments within 30 days of Settling Defendants' receipt of each bill requiring payment, except as provided in Paragraph (c) below. Settling Defendants shall make all payments required by this Paragraph by a certified or cashier's check or checks made payable to "EPA Hazardous Substance Superfund," referencing the name and address of the party making the payment, EPA Site/Spill ID Number B374, and DOJ Case Number 90-11-3-08708. Settling Defendants shall send the check(s) to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Attn: Cindy Sanders
26 W. MLK Drive
Cincinnati, OH 45268

b. At the time of payment, Settling Defendants shall send notice that payment has been made to the United States, to EPA and to the Regional Financial Management Officer, in accordance with Section XVII (Notices and Submissions).

c. Settling Defendants may contest payment of any Future Response Costs

under Paragraph a. above if they determine that the United States has made an accounting error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the United States pursuant to Section XVII (Notices and Submissions). Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, the Settling Defendants shall within the 30 day period pay all uncontested Future Response Costs to the United States in the manner described in this Section. Simultaneously, the Settling Defendants shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the Commonwealth of Virginia and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. The Settling Defendants shall send to the United States, as provided in Section XVII (Notices and Submissions), a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, the Settling Defendants shall initiate the Dispute Resolution procedures in Section VI (Dispute Resolution). If the United States prevails in the dispute, within 5 days of the resolution of the dispute, the Settling Defendants shall pay the sums due (with accrued interest) to the United States in the manner described in this Section. If the Settling Defendants prevail concerning any aspect of the contested costs, the Settling Defendants shall pay that portion of the costs (plus associated

accrued interest) for which they did not prevail to the United States in the manner described in this Section; Settling Defendants shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section VI (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding the Settling Defendants' obligation to reimburse the United States for its Future Response Costs.

9. In the event that the payments required by this Section are not made within 30 days of the Effective Date or the payments required by this Section are not made within 30 days of the Settling Defendants' receipt of the bill, Settling Defendants shall pay Interest on the unpaid balance. The Interest to be paid on Past Response Costs under this Paragraph shall begin to accrue on the Effective Date. The Interest on Future Response Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of the Settling Defendants' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Settling Defendants' failure to make timely payments under this Section including, but not limited to, payment of stipulated penalties pursuant to Section VIII. The Settling Defendants shall make all payments required by this Paragraph in the manner described in this Section.

VI. DISPUTE RESOLUTION

10. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures described in this Section shall be the exclusive mechanism to resolve disputes arising between EPA and the Settling Defendants under or with respect to this Consent

Decree. However, the procedures set forth in this Section shall not apply to actions by the United States to enforce obligations of the Settling Defendants that have not been disputed in accordance with this Section.

11. Any dispute which arises under or with respect to this Consent Decree shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed thirty (30) days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen upon receipt by EPA (in the case of a dispute initiated by the Settling Defendants), or any one of the Settling Defendants (in the case of a dispute initiated by EPA) of a written Notice of Dispute.

12. Informal Negotiations. Any dispute which arises under this Section shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed 20 days from the time the dispute arises, unless it is modified by written agreement of the Parties.

13. Statements of Position.

a. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by EPA shall be considered binding unless, within 21 days after the conclusion of the informal negotiation period, Settling Defendants invoke the formal dispute resolution procedures of this Section by serving on the United States a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting

documentation relied upon by Settling Defendants.

b. Within 21 days after receipt of Settling Defendants' Statement of Position, EPA will serve on Settling Defendants its Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by EPA. Within 14 days after receipt of EPA's Statement of Position, Settling Defendants may submit a Reply.

c. Following receipt of all statements of position submitted pursuant to Paragraphs (a) and (b), the Director of the Hazardous Site Cleanup Division, EPA Region III (Division Director) will issue a final decision resolving the dispute. The Division Director's decision shall be binding on Settling Defendants unless, within ten days of receipt of the decision, Settling Defendants file with the Court and serve on the United States a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Decree. The United States may file a response to Settling Defendants' motion.

d. Judicial review of any dispute under this Consent Decree shall be governed by applicable principles of law.

e. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of Settling Defendants under this Consent Decree not directly in dispute, unless the United States or the Court agrees otherwise

VII. PAYMENT OF PENALTY BY HUFF ENTITIES

14. Within 30 days of the Effective Date, the Huff Entities shall pay to the United States \$23,500 as a civil penalty to settle the United States' claim under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), for their alleged failure to comply with and/or willful violation of the Order. The Huff Entities shall not deduct the civil penalty paid under this Paragraph in calculating their federal income taxes.

15. Payment of the civil penalty shall be made by Electronic Funds Transfer ("EFT") to the United States Department of Justice, in accordance with current EFT procedures, referencing DOJ Case Number 90-11-3-08708, and the civil action case name and case number. The costs of such electronic funds transfer shall be the responsibility of the Huff Entities. Payment shall be made in accordance with instructions provided to the Huff Entities by the Financial Litigation Unit of the U.S. Attorney's Office in the Western District of Virginia. Any funds received after 11:00 a.m. (EST) shall be credited on the next business day. The Huff Entities shall provide notice of payment, referencing DOJ Case Number 90-11-3-08708 and the civil action case name and case number to:

Robert Hasson (3RC42)
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

and to: Chief
Environmental Enforcement Section
Environment and Natural Resources Division
P.O. Box 7611

VIII. FAILURE TO COMPLY WITH CONSENT DECREE

16. Interest on Late Payments. If Settling Defendants fail to make any payment under Section V (Payment of Response Costs) by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

17. Stipulated Penalty.

a. If any amount due under Section VI (Payment of Response Costs) is not paid by the required date, Settling Defendants shall be in violation of this Consent Decree and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by the foregoing Paragraph, Five Hundred Dollars (\$500.00) per violation per day that such payment is late.

b. If any amount due under Section VII (Payment of Penalties by Huff Entities) is not paid by the required date, the Huff Entities shall be in violation of this Consent Decree and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by this Section, Two Thousand Dollars (\$2000.00) per violation per day that such payment is late.

c. Stipulated penalties are due and payable within thirty (30) days of the date of the demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the check, shall reference the name and address of the party(ies) making payment, the Site name, the EPA Region and Site Spill ID Number B374, DOJ Case Number 90-11-3-08708, and the civil

action number. Settling Defendants shall send the check (and any accompanying letter) to:

Environmental Protection Agency
Cincinnati Finance Center
Attn: Cindy Sanders
26 W. MLK Drive
Cincinnati, OH 45268

d. At the time of each payment, Settling Defendants shall also send notice that payment has been made to EPA and DOJ in accordance with Section XVII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill ID Number B374, DOJ Case Number 90-11-3-08708, and the civil action number. Settling Defendants also shall send notice of payment to the following addressees:

Lydia Guy, Docket Clerk (3RC00)
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19107-2029

Barbara Borden (3PM30)
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19107-2029

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

18. If the United States brings an action to enforce this Consent Decree, Settling

Defendants shall reimburse the United States for all costs of such action, including, but not limited, to costs of attorney time.

19. Payments made under this Section VIII shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

20. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Section V, or the Huff Entities from payment of penalty as required by Section VI, or from performance of any other requirements of this Consent Decree.

IX. COVENANTS BY PLAINTIFF

21. Covenant for Past and Future Response Costs and Control Obligations. Except as specifically provided in Section X (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past and Future Response Costs. The United States also agrees not to exercise its federal lien rights under Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), against the Owner with regard to Past Response Costs, and upon entry of this Consent Decree, EPA shall send Owner written notification that EPA will withdraw its previous Notice of Intent to Perfect a Lien on the real property at the Site. The United States further covenants not to sue or to take administrative action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a) for performance and implementation of the obligations set forth in Section XIII

and for the Post-Removal Site Control Obligations set forth in Section XIV. This covenant not to sue shall take effect upon receipt by EPA of all payments of Past Response Costs required by Section V (Payment of Response Costs) and any amount due under Section VIII (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by the Settling Defendants of their obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendants and does not extend to any other person.

22. Covenant for 106(b) Penalty. The United States covenants not to sue the Huff Entities for penalties under Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1), for their failures to comply with, or for willful violations of, the Order arising out of the removal and disposal of drums located on the Site, as alleged in the Complaint. This covenant not to sue shall take effect upon receipt by EPA of all payments of a 106(b)(1) penalty as required by Section VII (Payment of Penalty by Huff Entities) and any amount due under Section VIII (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by the Huff Entities to pay a Penalty as set forth in Section VII of this Consent Decree. This covenant not to sue extends only to the Huff Entities as defined in Section IV of this Consent Decree and does not extend to any other person.

X. RESERVATIONS OF RIGHTS BY UNITED STATES

23. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within the Covenants by Plaintiff in Section IX. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants with respect to:

- a. liability for failure of Settling Defendants or the Huff Entities to meet a requirement of this Consent Decree;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs or that are not within the definition of Future Response Costs and actually reimbursed;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606, except enforcement for violations within the scope of the United States' covenant to the Huff Entities for penalties as set forth in Section IX;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

XI. COVENANT BY SETTLING DEFENDANTS

24. Covenant to United States: Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States, including any department, agency or instrumentality of the United States, or its contractors or employees, with respect to the Site, including Past and Future Response Costs, costs incurred by Settling Defendants in connection with the Order, or this Consent Decree, including but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of the response actions at the Site, including any claim

under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613.

25. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

XII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

26. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action that they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

27. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendants are entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for Matters Addressed in this settlement. Matters Addressed in this settlement include (i) Past Response Costs; (ii) Future Response Costs demanded by EPA and reimbursed by Settling Defendants; and (iii) Post-Removal Site Control Obligations as set forth in Section XIV of this Consent Decree.

28. Settling Defendants agree that, with respect to any suit or claim for contribution

brought by it for matters related to this Consent Decree, it will notify EPA and DOJ in writing no later than sixty (60) days prior to the initiation of such suit or claim. Settling Defendants also agree that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify EPA and DOJ in writing within ten (10) days of service of the complaint or claim upon it. In addition, Settling Defendants shall notify EPA and DOJ within ten (10) days of service or receipt of any Motion for Summary Judgment, and within ten (10) days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

29. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by Plaintiff set forth in Section IX.

XIII. SITE ACCESS AND OTHER OBLIGATIONS

30. Site Access. The Owner, and any other Settling Defendants who own or control access to any other property where access is needed to implement response activities at the Site, shall, commencing on the effective date of this Consent Decree, provide EPA and its representatives, including contractors, with access at all reasonable times to the Site, or to such other property, for the purpose of conducting any response activity related to the Site, including, but not limited to, the following activities:

- a. Monitoring, investigation, removal, remedial or other activities at the Site;
- b. Verifying any data or information submitted to the United States;
- c. Conducting investigations relating to contamination at or near the Site;
- d. Obtaining samples;
- e. Assessing the need for, planning, or implementing response actions at or near the Site;
- f. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by the Owner or its agents, consistent with Section XV (Access to Information); and
- g. Assessing Settling Defendants' compliance with this Consent Decree and the Order.

31. Other Obligations. The Owner shall, commencing on the date of lodging of this Consent Decree and continuing thereafter, comply with the following:

- a. In addition to the Post-Removal Site Control obligations set forth in Section XIV of this Consent Decree, use Appropriate Care with respect to Existing Contamination at the Site to prevent the release or threat of release of hazardous substances. As used in this Consent Decree, Appropriate Care shall mean taking reasonable steps (i) to stop any continuing release; (ii) to prevent any threatened future release; and (iii) to prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance;
- b. Within thirty (30) days of entry of this Consent Decree, file the

attached Notice (Appendix B) with the Recorder of Deeds, Pulaski County, State of Virginia ("Title Notice"), which shall provide notice to all successors-in-interest that such property is part of the Allied Pulaski Superfund Site. Such Title Notice shall identify the civil action number of this Consent Decree and the date this Consent Decree is lodged. Such Title Notice shall recite the Owner's obligations pursuant to this Section XIII (Access and Other Obligations). The recording shall be done in such manner as shall be effective to bring the Title Notice to the attention of any person examining or researching the state and/or quality of the title to the real property constituting Owner's Site Property or searching for any encumbrances, covenants, easements, liens, restrictions, or other limitations relating to such property. Such recording shall be made in the Grantor/Grantee and Lot/Block indices of the deed for the Owner's Site Property. Thereafter, each deed, title, or other instrument of conveyance for property executed by the Owner regarding the Site Property, or any portion thereof, shall contain a notice stating that the property is subject to this Consent Decree and shall reference the recorded location of this Title Notice, this Consent Decree and any restrictions applicable to the property under this Consent Decree. The Owner shall not modify or terminate such Title Notice without prior written approval of EPA. The Owner shall provide EPA with a certified copy of the recorded Title Notice within ten (10) days of recording such Title Notice.

c. At least thirty (30) days prior to any Transfer, give the grantee(s) or transferee(s)-in-interest written notice of this Consent Decree ("Notice of Consent Decree"), including a written description of the access requirements and other obligations set forth in this Section XIII of this Consent Decree. At least thirty (30) days prior to such Transfer, Settling

Defendants shall also give written notice to EPA of the proposed Transfer, which shall include the name(s), address(es) and telephone number(s) of the grantee(s) or transferee(s)-in-interest, and the date on which notice of the Consent Decree was given to the grantee(s) or transferee(s)-in-interest.

d. In the event of any Transfer, expressly provide in the instrument effecting the Transfer notice, as described in Appendix B hereto, that informs the grantee of the access requirements and other obligations of this Consent Decree.

e. In the event of any Transfer, provide EPA with copies of all agreement(s) or contract(s), including but not limited to, indemnification agreement(s) or contract(s), executed in connection with such conveyance, transfer or assignment, within thirty (30) days of the effective date of such agreement(s).

32. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, as well as all of its rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

XIV. POST-REMOVAL SITE CONTROL OBLIGATIONS OF SETTLING PARTY

33. Owner shall maintain the capped area of the Site to prevent any exposure to hazardous substances beneath the cap and to prevent run-off of hazardous substances from beneath the cap into Peak Creek. The capped area of the Site is delineated in the map attached hereto as Appendix C.

34. At least thirty (30) days prior to commencement of excavation activities of any type at the Site, the Owner or a Successor in Interest shall seek and obtain written approval of its

excavation plans from the Town of Pulaski or other local government agency that may have assumed oversight responsibility for post-removal activities to assure that such excavation will not result in releases of hazardous substances.

35. Within sixty (60) days of the Effective Date, the Owner shall develop and submit to EPA for approval a Post-Removal Site Control Plan ("Plan") for maintenance of soil and vegetative covers on the capped portion of the Site that is depicted in Appendix C and on the sloped area of the northern portion of the Site, which is delineated on the maps attached hereto as Appendix D and Appendix E and which was subject to the Bank Stabilization Work that Owner has implemented under the Order. Owner shall maintain Site improvements including, but not limited to, stormwater control structures and vegetative covers that will (i) prevent ponding, erosion and sediment transport off-site; and (ii) manage stormwater run-on and run-off across the Site to control the water volume resulting from a 24-hour, 25-year storm. The Plan shall set forth the manner in which Owner proposes to fulfill that obligation.

36. After EPA approves the Plan, the Owner shall implement the Plan. The Owner agrees that it will continue to perform the activities in the Plan and such other operation and maintenance activities as may be necessary at the Site to ensure the integrity of the work performed. Owner recognizes that the Town of Pulaski or another local governmental agency may assume oversight responsibilities from EPA. If the oversight responsibilities have been transferred to the Town of Pulaski or other local government agency, the Owner shall submit any required activity reports and other routine submissions to the Town of Pulaski or other local government agency and shall no longer be required to submit such reports to EPA. Notwithstanding any

provision of this Agreement, EPA retains all of its information-gathering authorities and rights, under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), Section 3007 of RCRA, 42 U.S.C. § 6972, and any other applicable statute or regulations.

XV. ACCESS TO INFORMATION

37. Settling Defendants shall provide to EPA upon request, copies of all records, reports, or information (hereinafter referred to as "records") within their possession or control or that of their contractors or agents relating to activities at the Site, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Site.

38. **Confidential Business Information and Privileged Documents.**

a. Settling Defendants may assert business confidentiality claims covering part or all of the records submitted to Plaintiff under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. 2.203(b). Such an assertion shall be adequately substantiated in accordance with 40 C.F.R. 2.204(e)(4) at the time the assertion is made. Records determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies records when they are submitted to EPA, or if EPA has notified Settling Defendants that the records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such records without further notice to Settling Defendants.

b. Settling Defendants may assert that certain records are privileged under the

attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege in lieu of providing records, it shall provide Plaintiff with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

39. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

XVI. RETENTION OF RECORDS

40. Until ten (10) years after the entry of this Consent Decree, Settling Defendants shall preserve and retain all records now in their possession or control, or which come into their possession or control, that relate in any manner to response actions taken at the Site or the liability of any person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary.

41. After the conclusion of the 10-year document retention period in the preceding

paragraph, Settling Defendants shall notify EPA and DOJ at least ninety (90) days prior to the destruction of any such records, and, upon request by EPA or DOJ, Settling Defendants shall deliver any such records to EPA. Settling Defendants may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege, they provide Plaintiff with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants's favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

42. Settling Defendants hereby certify that, to the best of their knowledge and belief, after thorough inquiry, they have not altered, mutilated, discarded, destroyed or otherwise disposed of any records, reports, or information relating to their potential liability regarding the Site since notification of potential liability by the United States or the State or the filing of suit against them regarding the Site and that they have fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6972.

XVII. NOTICES AND SUBMISSIONS

43. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Defendants in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, and Settling Defendants, respectively.

As to the United States:

As to DOJ:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(DJ # 90-11-3-08708)

As to EPA:

Robert S. Hasson (3RC41)
Assistant Regional Counsel
EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Melissa Pennington (3HS62)
Compliance Officer
EPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

As to Settling Defendants:

Brian Israel
Arnold and Porter
555 12th Street NW
Washington, DC 20004-1206

Charles Williams
Gentry Locke Rakes & Moore LLP
10 Franklin Road, S.E.
P.O. Box 40013
Roanoke, VA 24022-0013

XVIII. RETENTION OF JURISDICTION

44. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XIX. INTEGRATION/APPENDICES

45. This Consent Decree and its appendices constitutes the final, complete and exclusive agreement and understanding among the Defendants with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree:

Appendix A	Map of the Site
Appendix B	Title Notice
Appendix C	Map showing area of the Site capped pursuant to Order
Appendix D	Map showing location of the bank stabilization work within the Site under the Bank Stabilization Work Plan.
Appendix E	Grading plan for the slopes within the bank stabilization area.

XX. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

46. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consents to the entry of this Consent Decree without further notice.

47. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXI. SIGNATORIES/SERVICE

48. The undersigned representatives of the Settling Defendants to this Consent Decree and the Chief or Deputy Chief of the Environmental Enforcement Section for the Environment and Natural Resources Division of the United States Department of Justice each certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

49. Settling Defendants hereby agree not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

50. Settling Defendants shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set

forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons. The Parties agree and stipulate that Settling Defendants need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

XXII. FINAL JUDGMENT

51. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between the United States and the Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS ____ DAY OF _____, 20__.

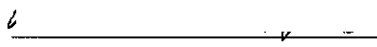
United States District Judge

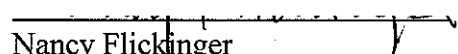
THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Honeywell International Inc., et al.*, relating to the Allied-Pulaski Superfund Site, Pulaski, VA.

FOR THE UNITED STATES OF AMERICA

RONALD J. TENPAS
Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
Washington, D.C. 20530

By:


BRUCE GELBER
Chief
Environmental Enforcement Section
Environment and Natural Resources Division


Nancy Flickinger
Senior Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7611
Ben Franklin Station
Washington, DC 20044
(202) 514-5258

JOHN L. BROWNLEE
United States Attorney
Western District of Virginia

By:

Anthony Giorno
Assistant United States Attorney
Western District of Virginia
301 1st Street, SW
Room 906
Roanoke, VA 24011

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Honeywell International, Inc., et al.*, relating to the Allied-Pulaski Superfund Site, Pulaski, VA.

DONALD S. WELSH
Regional Administrator
Region III
United States Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

WILLIAM C. EARLY
Regional Counsel
Region III
United States Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

ROBERT S. HASSON
Assistant Regional Counsel
Region III
United States Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Honeywell International Inc., et al.*, relating to the Allied-Pulaski Superfund Site, Pulaski, VA.

FOR DEFENDANT

Downtown East Limited Partnership

By: Downtown East, Inc., General Partner

By _____
H. W. Huff Jr., President

FOR DEFENDANT

Downtown East, Inc.

By _____
H. W. Huff Jr., President

FOR DEFENDANT

DELP-2, LLC

By: Downtown East, Inc., Managing Member

By _____
H. W. Huff Jr., President

DEFENDANT

H. W. Huff Jr.

Agent Authorized to Accept Service on Behalf of Above-signed Parties:

Name: H. W. Huff Jr.

Title: President

Address: P.O. Box 2122 Pulaski, Va 24301

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of *United States v. Honeywell International Inc., et al.*, relating to the Allied-Pulaski Superfund Site, Pulaski, VA.

FOR DEFENDANT [HONEYWELL] INTERNATIONAL INC

Date: 9/10/07

[Signature]
[Names and address of Defendant's
signatories]

Agent Authorized to Accept Service on Behalf of Above-signed Party:

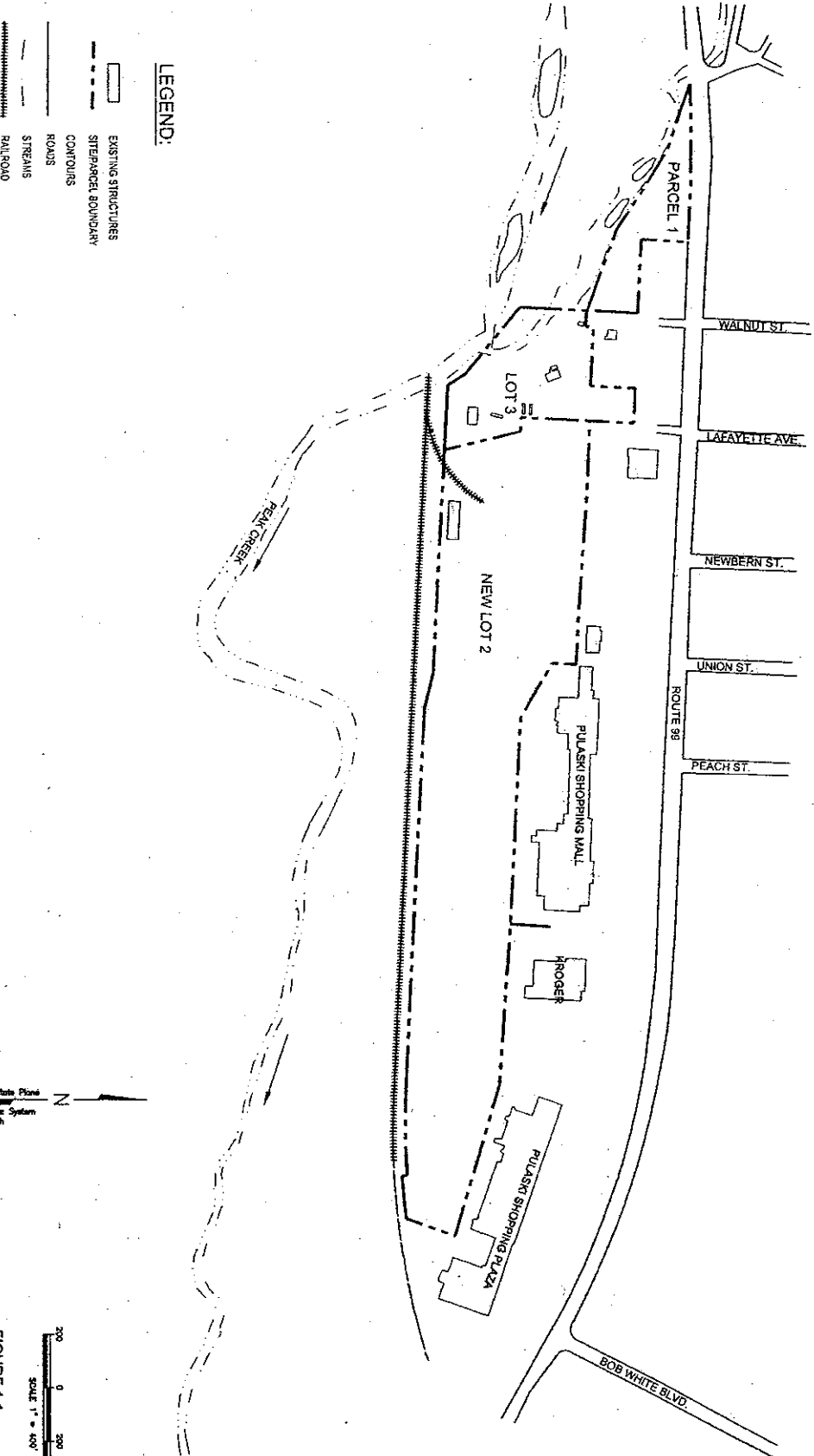
Name: John J. Mauris

Title: Remediation Portfolio Director

Address: 101 Columbia Rd., Morrisstown, NJ 07962

APPENDIX A

APPENDIX A



APPENDIX B

Tax Parcel Numbers:

Address:

Prepared by:

NOTICE OF ACCESS AND OTHER OBLIGATIONS

This Notice of Access and Other Obligations is made this ____ day of ____ 2007, by Honeywell International Inc. (together with its successors and assigns, collectively "Owner"), having a business address of 101 Columbia Road, P.O. Box 2245, Morristown, NJ 07962.

I. RECITALS

WHEREAS, Owner is the owner in fee simple of real property, tax parcel numbers ____, located in the Town of Pulaski, Pulaski County, Virginia ("the Property"). A legal description of the Property is attached hereto as Exhibit A;

WHEREAS, the Allied-Pulaski Superfund Site ("Site") is located on the Property. The Site is roughly depicted on the map attached hereto as Exhibit B;

WHEREAS, the Property was formerly operated as a chemical manufacturing facility;

WHEREAS, "hazardous substances," as that term is defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended, 42 U.S.C. § 9601(14), were disposed of at the Property during its use as a chemical manufacturing facility. In particular, heavy metals, including, but not limited to, lead, which are associated with the former operations at the Property, have been found in soils and sediments at the Property;

WHEREAS, the United States Environmental Protection Agency ("EPA") and the Commonwealth of Virginia Department of Environmental Quality ("DEQ") have performed Response Actions at the Site, pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, and/or other state and federal laws. The purpose of these Response Actions has been to protect public health or welfare or the environment from an imminent and substantial danger caused by a release or threatened release of hazardous substances at or from the Site;

WHEREAS, on September 28, 2000, EPA issued an Administrative Order for Removal Response Action (Docket No. III-2000-0027-DC) ("Order") to Owner and other Respondents, whereby Owner was required to implement the Removal Response Action selected for the Site. A copy of the Order is attached hereto as Exhibit C;

WHEREAS, Owner has been implementing the Removal Response Action selected for the Site as required by the Order, including, but not limited to, excavation and removal of contaminated soils at the Site, back-filling and re-vegetation of portions of Site where excavation has occurred, and repair of a cap located on-Site. Maps depicting the portions of the Property where the Removal Response Action has been performed are attached hereto as Exhibit D;

WHEREAS, on July 16, 2003, EPA issued Amendment No. 1 to the Order ("Amendment No. 1"), whereby certain modifications to the Order were made. A copy of Amendment No. 1 is attached hereto as Exhibit E;

WHEREAS, on _____, the Court entered a Consent Decree between the United States, on behalf of EPA, and Owner, wherein Owner agreed to implement certain post-removal site control measures at the Property to ensure the integrity of the removal action. A copy of the Consent Decree is attached hereto as Exhibit F;

WHEREAS, pursuant to the Consent Decree, Owner has submitted a Plan for post-removal site controls, which Plan EPA approved on _____. The Plan provides that Owner shall stabilize and establish a vegetative cover on the capped portion of the Site which will (i) prevent ponding, erosion and sediment transport off-site; (ii) grade, bench and vegetate eroding and bare slopes along the length of the northern edge of the Site; (iii) manage stormwater run-on and run-off across the Site to control the water volume resulting from a 24-hour, 25-year storm; and (iv) maintain Site improvements including stormwater control structures and the vegetative cover. A copy of the EPA-approved Plan is attached hereto as Exhibit G;

WHEREAS, pursuant to the Consent Decree, Owner is required to provide access to the Property at reasonable times to EPA and its employees, agents, consultants, contractors, and other authorized and/or designated representatives for the purposes of conducting and/or overseeing Response Actions;

WHEREAS, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, EPA is authorized to enter the Property at reasonable times in order to determine the need for and/or to effectuate a Response Action; and

WHEREAS, Owner wishes (a) to cooperate fully with EPA in the implementation of Response Actions at the Site, and (b) to exercise appropriate care at the Property with respect to the cap that has been installed there and with respect to Existing Contamination that may remain beneath the surface of the Property.

II. DECLARATION OF ACCESS AND OTHER OBLIGATIONS AND RESERVATIONS

NOW, THEREFORE, intending to fulfill the terms of the Consent Decree, the Owner files this notice that use of the Property is subject to the advisories set forth below.

1. Purpose: It is the purpose of this instrument to provide notice of the obligations of the Owner and all subsequent owners, lessees, and/or operators of the Property under the Consent Decree. These obligations are (1) to provide EPA with access in order to implement and/or monitor Response Actions at the Property; and (2) to use Appropriate Care, as defined in the Consent Decree, with respect to Existing Contamination, and to maintain the cap at the Property.

2. Access: The following advisory applies to access to the property by EPA:

Pursuant to the Consent Decree, Owner of the Property may be asked to provide EPA, and any appropriate personnel and equipment EPA deems necessary, with access at reasonable times to the Property for the purposes of determining the need for Response Actions and/or conducting Response Actions;

3. Use of Property: The following advisories apply to use of the Property:

- a. Owner shall maintain the cap to prevent any exposure to hazardous substances beneath the cap and to prevent run-off of hazardous substances from beneath the cap into Peak Creek.
- b. At least thirty (30) days prior to commencement of excavation activities of any type at the Property, the Owner or a Successor in Interest shall seek and obtain written approval of its excavation plans from the Town of Pulaski or other local government agency that may have assumed oversight responsibility for post-removal activities to assure that such excavation will not result in releases of hazardous substances.
- c. In addition to the above-described obligations and any Post-Removal Site Control obligations set forth in the Consent Decree and/or in the EPA-approved Post-Removal Site Control Plan, which are attached hereto as Exhibits F and G, Owner shall use Appropriate Care with respect to Existing Contamination at the Site to prevent the release or threat of release of hazardous substances. As used in this

Notice of Access and Other Obligations, Appropriate Care shall mean taking reasonable steps (i) to stop any continuing release; (ii) to prevent any threatened future release; and (iii) to prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.

4. Reserved Rights of Owner: Owner hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the advisory and rights recited herein.

5. Right of Entry provided by Law or Regulation: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access provided by law or regulation.

6. No Public Access and Use: This instrument does not grant any right of access or use to any portion of the Property to the general public.

7. Notice requirements: The Consent Decree requires Owner to include in any instrument conveying any interest in any portion of the Site, including, but not limited to, deeds, leases and mortgages, a Disclosure which is in substantially the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO A "NOTICE OF ACCESS AND OTHER OBLIGATIONS" AND THE TERMS, CONDITIONS AND RESTRICTIONS CONTAINED THEREIN, DATED _____. THE "NOTICE OF ACCESS AND OTHER OBLIGATIONS" WAS RECORDED ON _____ IN THE OFFICE OF THE RECORDER OF DEEDS FOR PULASKI COUNTY, VIRGINIA, IN BOOK ___, PAGE ____.

Within thirty (30) days of the date any such instrument of conveyance is executed, Owner shall provide EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

8. Notice to Parties: Any notice, demand, request, consent, approval, or communication that either EPA or Owner desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:

Thomas Byrne
Assistant General Counsel
Honeywell International Inc.
101 Columbia Road
P.O. Box 2245
Morristown, NJ 07962

To EPA:

Robert S. Hasson (3RC41)
Assistant Regional Counsel
United States Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Phone: 215-814-2672

IN WITNESS WHEREOF, the Grantor herein, has executed the foregoing Declaration
this ____ day of _____, 2007

COMMONWEALTH OF VIRGINIA

:SS.

PULASKI COUNTY

BE IT REMEMBERED that on this ____ day of ____ A.D. 2007, personally came before
me, the Subscriber, Notary Public for the Commonwealth and County aforesaid,
_____, Declarant in the foregoing Notice of Access Obligations and Use
Restrictions, and he acknowledged this Declaration to be his act and deed.
GIVEN under my Hand and Seal of office the day and year aforesaid.

Notary Public

My Commission Expires

EXHIBIT A
[LEGAL DESCRIPTION OF PROPERTY]

EXHIBIT B
[MAP AND FIGURES DEPICTING THE SITE AND
AREAS OF EXISTING CONTAMINATION]

EXHIBIT C
[ADMINISTRATIVE ORDER FOR REMOVAL RESPONSE ACTION]

EXHIBIT D
[MAP DEPICTING PORTIONS OF PROPERTY WHERE CAP HAS BEEN REPAIRED AND
REMOVAL RESPONSE ACTION HAS BEEN PERFORMED]

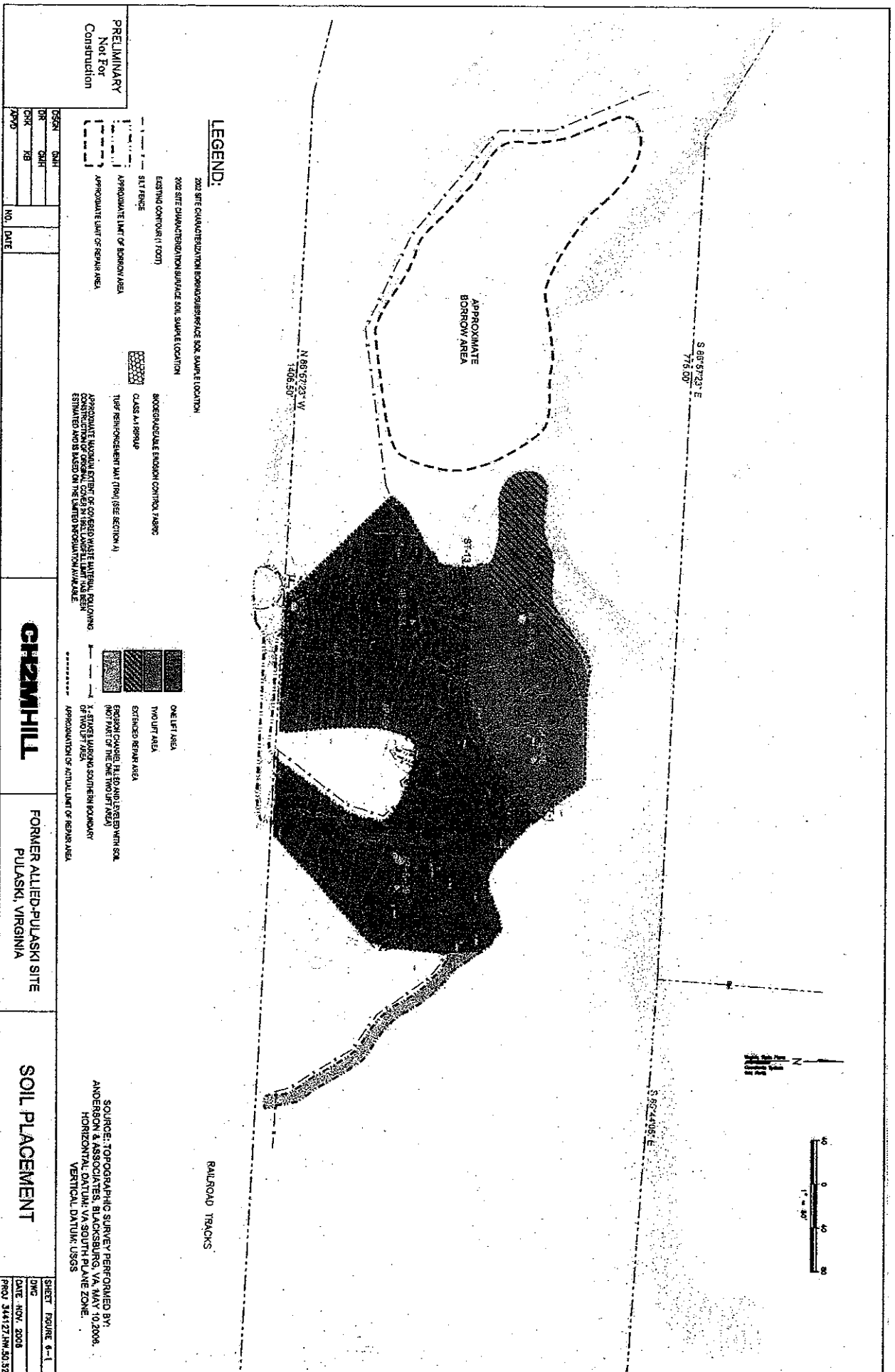
EXHIBIT E
[AMENDMENT NO. 1 TO THE ADMINISTRATIVE ORDER]

EXHIBIT F
[CONSENT DECREE]

EXHIBIT G
[EPA-APPROVED POST-REMOVAL SITE CONTROL PLAN]

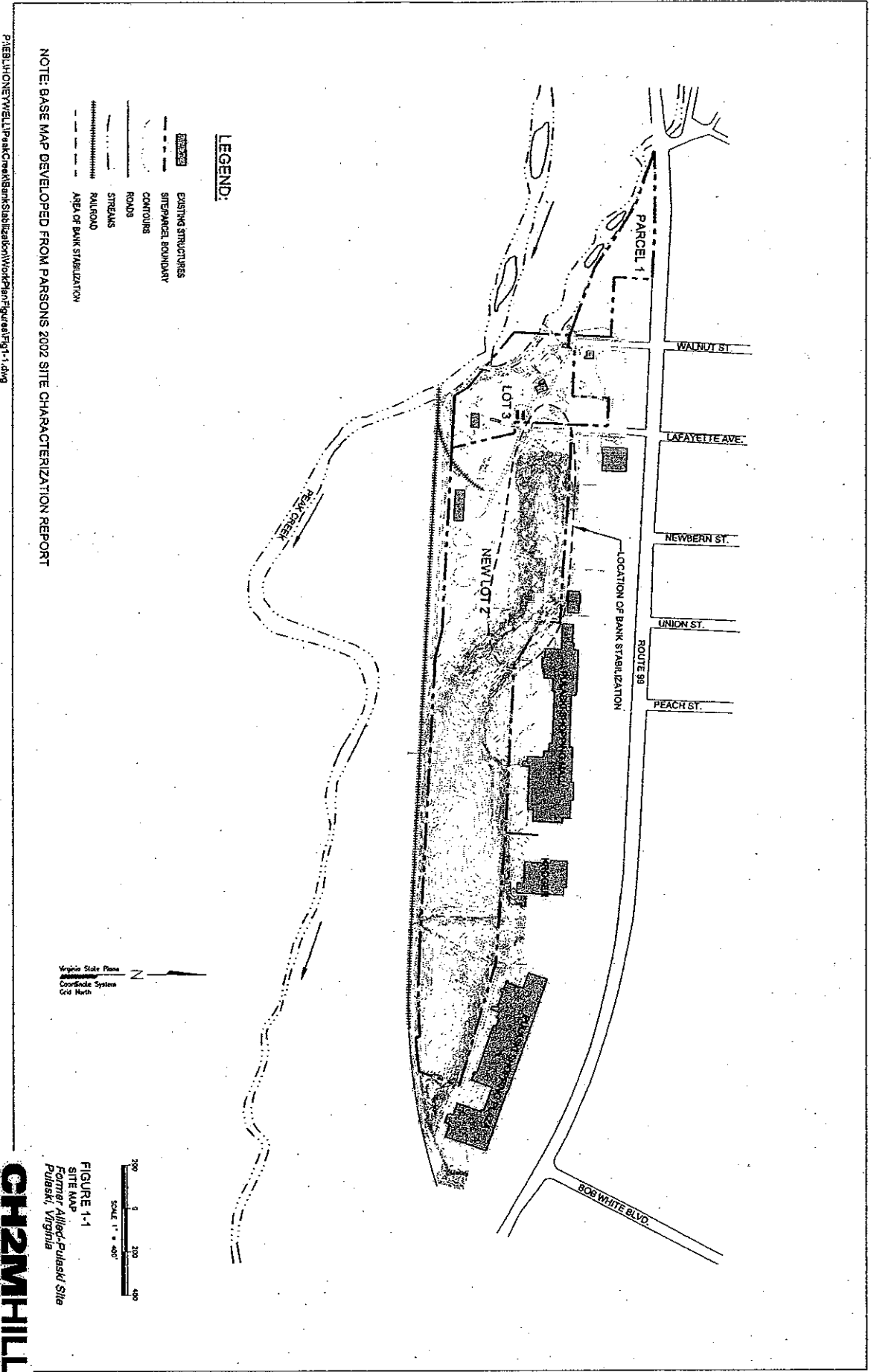
APPENDIX C

APPENDIX C



APPENDIX D

APPENDIX D



APPENDIX E

APPENDIX E

